

Department of Environmental Protection and Resource Management
105 West Chesapeake Avenue
Towson, Maryland 21204

In the Matter of

Civil Citation No. 08-0061-C001

Michael Shupe
Margaret Leard

7282 Gough Street

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on December 16, 2009, for a Hearing on a citation for violations of the Baltimore County Code (BCC) article 33, title 5, section 103, lack of stabilization and placing a silt fence on residential property known as 7282 Gough Street, 21224.

On November 30, 2009, pursuant to § 3-6-205, Baltimore County Code, Inspector Keith Kelly issued a Code Enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2,400.00 (two thousand four hundred dollars).

The Respondent failed to request a Code Enforcement Hearing and/or failed to appear after requesting a Hearing. Baltimore County Code, § 3-6-205(d) provides that in case of failure to request a Code Enforcement Hearing or if the violator (Respondent) fails to appear after requesting a Hearing then the citation and the civil penalty, shall be the Final Order of the Code Official not subject to appeal.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on November 6, 2009 directing Respondents to stabilize all bare dirt with straw mulch, install silt fence on the low sides of the disturbance and keep in place until grass is growing, finish the partially constructed retaining wall, and provide a stone base or concrete macadam/pad if cars are to be parked in the yard. This Citation was issued on November 30, 2009.

B. Photographs in the file show a partially constructed low retaining wall around two sides of the corner of the yard of this residential property. A hill of bare dirt rises above the low wall into a level rear yard. The total elevation is unclear but appears to be approximately three feet. The partially constructed retaining wall adjoins the public alley. A large storm drain is visible in the middle of the paved alley, and silt is visible next to the storm drain.

C. Respondent failed to appear for this Hearing. Notes in the file from Inspector Keith Kelley state that this property was inspected on November 5, 2009 following receipt of a complaint. Notes further state that a similar violation occurred in 2008. Reinspection on November 30 found no improvement and no correction. Dirt is visibly washing off this property and into the storm drain, in violation of county, state and federal environmental laws. The evidence indicates that the property owners have graded this yard, which can mean the stripping, clearing of, or otherwise disturbing the earth to change the surface area, BCC Section 33-5-101, without taking proper precautions to prevent erosion and silt runoff.

D. This Order will direct Respondents to make essential corrections ordered in DEPRM's November 6 Correction Notice. Failure to make the corrections within the time provided below will result in a higher civil penalty and may also result in additional Citations being issued for continued violations.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$2,000.00 (two thousand dollars).

IT IS FURTHER ORDERED that the civil penalty will be REDUCED to \$200.00 (two hundred dollars) if Respondents make the required corrections within the time specified below:

1. Stabilize all bare dirt with straw mulch, by January 11, 2010;
2. Install silt fence on the low sides of the disturbance, by January 11, 2010, and keep in place until grass is growing;
3. Finish the retaining wall (and if the wall is to be more than 36" high, obtain required County building permit and follow code requirements) by May 3, 2010.

IT IS FURTHER ORDERED that after January 11, 2010, the County may enter the property for the purpose of stabilizing the bare dirt and installing the required silt fence, at Respondent's expense.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 24th day of December 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer